

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

FRANK E. VOTH,

Plaintiff,

6:13-cv-0575-AA

v.

ORDER

WENDY HATFIELD, et al.,

Defendants.

AIKEN, District Judge.

Plaintiff, an inmate in the custody of the Oregon Department of Corrections filed a complaint under 42 U.S.C. alleging that defendants violated his constitutional rights in various respects.

Plaintiff filed the complaint when he was incarcerated at the Oregon State Correctional Institution. The only named defendants are correctional officers at OSCI. The only relief sought is injunctive relief.


In an Emergency Motion for Temporary Restraining Order (#26) filed August 8, 2013, plaintiff alleges that on July 26, 2013, he was transferred to the Oregon State Penitentiary.

In Alvarez v. Hill, 667 F.3d 1061 (9th Cir. 2012), the Ninth Circuit found that a claim for injunctive and declaratory relief to be moot where a former prisoner would no longer be subjected to the conditions of which the suit complained. Because plaintiff lacks a "legally cognizable interest in the outcome" of the proceeding now that he is no longer incarcerated at OSCI and not subject to the conditions of which he complains at that facility, his claim fails to meet the case or controversy requirement of Article 3. U.S.C.A. Const. Art. 3, §2, cl. 1.

Plaintiff's Emergency Motion and Verification for Temporary Restraining Order (#26) is denied as moot. The Clerk is directed to enter a judgment dismissing this case with prejudice.¹

Any appeal from this order or judgment of dismissal would be frivolous and not taken in good faith.

DATED this 4 day of September 2013.



Ann Aiken
United State District Judge

¹Plaintiff "companion" case - 2:12-cv-01156-AA - seeking substantially identical relief against prison officials at the Oregon State Penitentiary is unaffected by this judgment of dismissal. In other words, plaintiff may still have his day in court concerning his claims, but is limited to seeking relief against appropriate defendants.